

January 25, 2010

ORDINANCE NO. ____

AN ORDINANCE PERTAINING TO THE STORM WATER MANAGEMENT AND POLLUTION PREVENTION CODE OF THE CITY OF WICHITA, KANSAS; AMENDING SECTIONS 16.32.010, 16.32.080, 16.32.100, 16.32.110, 16.32.120, AND 16.32.130; CREATING NEW SECTIONS 16.32.091, 16.32.092, 16.32.093, 16.32.094, 16.32.095, 16.32.096, 16.32.097, AND 16.32.098; AND REPEALING THE ORIGINALS OF SECTIONS 16.32.010, 16.32.080, 16.32.100, 16.32.110, 16.32.120, and 16.32.130.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 16.32.010 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16.32.010. General provisions.

A. Purposes. The purpose and objective of this chapter are as follows:

1. To maintain and improve the quality of surface water and groundwater within the city;
2. To prevent the discharge of contaminated storm water runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the city;
3. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers of the city;
4. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products;
5. To facilitate compliance with state and federal standards and permits by owners of industrial and construction sites within the city;
6. To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for storm water discharges.
7. To regulate the management of storm water for purposes of public safety, welfare and quality of life;
8. To manage and maintain local floodplains;
9. To maintain and improve the quality of surface waters within the city;

January 25, 2010

10. To facilitate compliance with city standards and permits by owners of developed, redeveloped and undeveloped properties within the city;

11. To enable the city to comply with all federal and state laws and regulations applicable to its NPDES permit for storm water discharges.

- B. Administration. Except as otherwise provided herein, the director, or his appointed representative, shall administer, implement, and enforce the provisions of this chapter.
- C. Authority. The director may develop additional policies, criteria, specifications and standards in a Storm Water Manual and/or in other policy, master plans, watershed plans or guidance documents as necessary to effectively implement the requirements of this chapter. The policies, criteria and requirements of the Storm Water Manual and/or other policy, plans or guidance documents may be implemented and amended by the director and shall be enforceable, consistent with the provisions contained in this chapter. A public meeting shall be held bi-annually to allow public comment on this chapter and the Storm Water Manual

In the event that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city may issue a Notice of Violation to the permittee, plan holder or property owner and/or any other person or entity having responsibility for the property or properties where the violation occurred under the provisions of subsection .100 B. of this chapter.

In the spirit of the purposes defined above for this chapter and in the administration of these requirements, the Director may consider the cost-effectiveness of storm water management controls provided that such controls meet the water quality, channel erosion protection and flood protection requirements of this chapter or are waived or exempted in accordance with the criteria defined in this chapter.

- D. Regulatory or legal conflicts. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations, except as specifically noted in this chapter. However, where the provisions of this ordinance and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail.
- E. Abbreviations. The following abbreviations when used in this chapter shall have the designated meanings:
- | | | |
|-------|---|--------------------------------------|
| BMP | - | Best Management Practices |
| CFR | - | Code of Federal Regulations |
| CLOMR | - | Conditional Letter of Map Revision |
| EPA | - | U.S. Environmental Protection Agency |
| FEMA | - | Federal Emergency Management Agency |

January 25, 2010

HHW	-	Hazardous Household Waste
KAR	-	Kansas Administrative Regulations
KSA	-	Kansas Statutes Annotated
LOMR	-	Letter of Map Revision
mg/l	-	Milligrams per liter
MS4	-	Municipal Separate Storm Sewer System
NOI	-	Notice of Intent
NOT	-	Notice of Termination
NPDES	-	National Pollutant Discharge Elimination System
OCI	-	Office of Central Inspection
PST	-	Petroleum Storage Tank
SWP3	-	Storm Water Pollution Prevention Plan
TMDL	-	Total Maximum Daily Load
USC	-	United States Code

F. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

1. "As-built plan" means a drawing showing the actual state of permanent storm water facilities as installed.
2. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
3. "Best management practices (BMP)" means schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States or the city's MS4 and includes both temporary measures used during construction and permanent measures that are constructed in accordance with the provisions of this ordinance. Best management practices also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas. The BMPs required in this chapter will be sufficient to prevent or reduce the likelihood of pollutants entering storm sewers, ditches, or ponds.
4. "City" means the City of Wichita.
5. "Commencement of construction" means the disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
6. "Commercial" means pertaining to any business, trade, industry or other activity engaged in for profit.
7. "Construction general permit" refers to the *Kansas General Permit for Storm water Discharges from Construction Sites*.

8. "Contractor" means any person or firm performing construction work at a construction site, including any general contractor and subcontractors. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical, landscaping contractors, and material suppliers delivering materials to the site.
9. "Development" or "new development" means undisturbed property where improvements are planned or intended that will result in land disturbance activities or impervious areas either during or after construction.
10. "Director" means the person appointed to the position of public works director by the city manager of the city, or his/her duly authorized representative. Authorized representatives can include, but are not limited to, the City Engineer, the Storm Water Engineer, and others, as so authorized.
11. "Discharge" means any addition or introduction of any pollutant, storm water, or any other substance whatsoever into the municipal separate storm sewer system (MS4) or into waters of the United States.
12. "Discharger" means any person who causes, allows, permits, or is otherwise responsible for a discharge, including without limitation any owner of a construction site or industrial facility.
13. "Domestic sewage" means human excrement, gray water (From home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveyances of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.
14. "Drainage plan" refers to the detailed water quantity and quality calculations and plan that are required for final plat approval or for issuance of a building permit.
15. "Earthwork" means the disturbance of soils on a site associated with clearing, grading, or excavation activities.
16. "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency, the regional office thereof, any federal department, agency or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.
17. "Extremely hazardous substance" means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
18. "Facility" means any building, structure, installation, process, or activity from which there is or may be discharge of a pollutant.
19. "Fertilizer" means a substance or compound that contains an essential plant nutrient element in a form available to plants and is used

primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

20. "Final stabilization" means the status when all soil disturbing activities at a site have been completed. This would establish a uniform perennial vegetative cover with a density of seventy percent coverage for unpaved areas and those not covered by permanent structures or equivalent permanent stabilization measures (by employing riprap, gabions, or geotextiles).
21. "Fire protection water" means any water, and any substances or materials contained therein, used by any person to control or extinguish a fire, or to inspect or test fire equipment.
22. "Garbage" means putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage facilities, and the handling and sale of produce and other food products.
23. "Harmful quantity" means the amount of any substance that will cause a violation of a State Water Quality Standard or any adverse impact to the city's drainage system.
24. "Hazardous household waste (HHW)" means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.
25. "Hazardous substance" means any substance listed in Table 302.4 of 40 CFR Part 302.
26. "Hazardous waste" means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
27. "Hazardous waste treatment, disposal, and recovery facility" means all contiguous land, and structures, other appurtenances and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.
28. "Impervious area" or "impervious cover" means the number of square feet of hard surface areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts, and compacted dirt or graveled areas.

29. "Individual building sites" means and includes sites of building construction or earthwork activities that are not a part of a new subdivision development and any individual lot within a newly developing subdivision.
30. Industrial General Permit. See "Kansas General Permit for Storm water Discharges Associated with Industrial Activity."
31. "Industrial waste" means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade or business.
32. "Industry" means and includes: (a) municipal landfills; (b) hazardous waste treatment, disposal, and recovery facilities; (c) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, U.S.C. Section 11023; industrial facilities required to obtain NPDES storm water discharge permits due to their Standard Industrial Classification or narrative description; and (d) industrial facilities that the director determines are contributing a substantial pollutant loading to the MS4, which are sources of storm water discharges associated with industrial activity.
33. "Kansas General Permit for Storm water Discharges Associated with Industrial Activity (or industrial general permit)" means the industrial general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
34. "Kansas General Permit for Storm water Discharges from Construction Sites (or construction general permit)" means the construction general permit issued by KDHE and any subsequent modifications or amendments thereto, including group permits.
35. "Landfill" means an area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, or an injection well.
36. "Municipal separate storm sewer system (MS4)" means the system of conveyances, (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.
37. "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.
38. "NPDES permit" means for the purpose of this chapter, this is a permit issued by EPA or the state of Kansas that authorizes the discharge of

storm water pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis

39. "Nonpoint source" means the source of any discharge of a pollutant that is not a point source.
40. "Notice of intent (NOI)" means the notice of intent that is required by either the industrial general permit or the construction general permit.
41. "Notice of termination (NOT)" means the notice of termination that is required by either the industrial general permit or the construction general permit.
42. "Notice of violation" means a written notice provided to the owner or contractor detailing any violations of this chapter and any clean-up action expected of the violators.
43. "OCI" means office of central inspection and includes its superintendent and his or her authorized representatives.
44. "Off-line storm water management facility" means a storm water management facility that receives storm water runoff only from the property upon which it is located, and receives no storm water runoff from other adjacent or upstream properties. Off-line storm water management facilities should not be confused with off-line storm water treatment, which is defined and described in detail in the Storm Water Manual.
45. "Oil" means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.
46. "On-line storm water management facility" means a storm water management facility that receives storm water runoff from the property upon which it is located, and which also receives storm water runoff from other upstream properties. On-line storm water management facilities should not be confused with on-line storm water treatment, which is defined and described in detail in the Storm Water Manual.
47. "Outfall" or "storm water outfall" means the terminus of the storm water system for a development or redevelopment where the storm water runoff is released into a larger public or private storm water management system, or into a stream, waters of the United States or other water body.
48. "Owner" means the person who owns a facility, part of a facility, or land.
49. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or any other legal entity; or their legal

representatives, agents, or assigns, including all federal, state, and local government entities.

50. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
51. "Petroleum product" means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle, or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel.
52. "Petroleum storage tank (PST)" means any one or combination of aboveground or underground storage tanks that contain petroleum product and any connecting underground pipes.
53. "Point source" means any discernable, confined, and discrete conveyance including, but not limited to: any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
54. "Pollutant" means dredged spoil, spoil waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, used motor oil, anti-freeze, litter, and industrial, municipal, and agricultural waste discharged into water and/or any substance, debris, matter that may be carried downstream by storm water runoff, and/or any substance or matter that may be dissolved in storm water runoff.
55. "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
56. "Qualified personnel" means persons who possess the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity.
57. "Redevelopment" or "redevelopment site" means a change to previously existing improved property, including but not limited to the demolition or building structures, filling, grading, paving, or excavating.

58. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.
59. "Reportable quantity (RQ)" means, for any hazardous substance, the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any extremely hazardous substance, the quantity established in 40 CFR Part 355.
60. "Rubbish" means nonputrescible solid waste, excluding ashes, that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (b) noncombustible waste materials, including grass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (one thousand six hundred to one thousand eight hundred degrees Fahrenheit).
61. "Sanitary sewer" means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which storm water, surface water, and groundwater are not intentionally admitted).
62. "Septic tank waste" means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
63. "Service station" means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from pumps.
64. "Sewage", means the domestic sewage mid and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.
65. "Site" means the land or water area where development or redevelopment is physically located or being conducted, including lands adjacent to the development that is not subject to land disturbing activities but that is used as a staging area or for other uses in connection with the new development or redevelopment.
66. "Solid waste" means any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material including: solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, agricultural operations, and community and institutional activities.

67. "Special flood hazard area" means an area having special flood hazards and shown on a Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).
68. "State" means the state of Kansas.
69. "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
70. "Storm Water Appeals Board" refers to Board identified in the latest version of chapter 16.30.070 of city code.
71. "Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is listed as one of the categories of facilities in 40 CFR Section 122.26(b)(14), and which is not excluded from EPA's definition of the same term.
72. "Storm water management facility" or "storm water control" means any structure or installation used to manage storm water quality, flow rate, or volume.
73. "Storm Water Manual" refers to the latest version, as amended, of the document on file with the Director of Public Works entitled *city of Wichita/Sedgwick County Storm Water Manual*.
74. "Storm water pollution prevention plan (SWP3)." Means a plan required by an NPDES storm water permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction or other industrial activity.
75. "Subdivision development" means and includes activities associated with the platting of any parcel of land into two or more lots and includes all construction taking place thereon.
76. "Ten-percent (10%) point" or "10% point" means the location on a stream where the drainage area that is controlled by a storm water management facility comprises ten-percent (10%) of the total drainage area at that location. Stated differently, the 10% point is the location in the storm water system downstream from a new development or redevelopment where the total area draining to that location equals ten (10) times the drainage area of the new development or redevelopment site. It is important to note that multiple 10% points may be identified for a single new development or redevelopment site, if the site discharges to multiple, separate streams, waters of the U.S. or other bodies of water.

77. "Undisturbed property" means real property which has not been altered from its natural condition so that the entrance of water into the soil mantle is prevented or retarded through changes to the topography or soils.
78. "Used oil (or used motor oil)" means any oil that has been refined from crude oil a synthetic oil that, as a result of use, storage, or handling; has become unsuitable for its original purpose because of impurities or the loss of original properties.
79. "Water of the state (or water)" means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.
80. "Water quality standard" means the designation of a body or segment of surface water in the state for desirable uses and the narrative an numerical criteria deemed by the state to be necessary to protect those uses.
81. "Waters of the United States" means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any water within the federal definition of "waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.
82. "Watershed" means the cumulative area that drains to a common point.
83. "Watershed plan" means an engineering and planning study for the drainage system and/or land areas of a watershed that may include a plan for storm water management in the watershed. Watershed plans can include, but are not limited to, the analysis of flooding problems, water quality problems, potential storm water capital improvements, land use patterns, and regulatory issues for existing and potential future land use conditions and address solutions to these problems.

January 25, 2010

84. "Wetland" means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

85. "Yard waste" means leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

SECTION 2. Section 16.32.080 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16.32.080. Compliance monitoring.

- A. Right of Entry. The Director, OCI, Environmental Services, or their authorized representatives, shall have the right to enter the premises of any person discharging storm water to the municipal separate storm sewer system (MS4) or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this chapter, and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the inspectors ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties.
- B. Records. Subject to the requirements of subsection A, dischargers shall make available, upon request, any SWP3's, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notice of intent, and any other records, reports, and other documents related to compliance with this chapter and with any state or federal discharge permit.
- C. Sampling. The Director shall have the right to set up on the discharger's property such devices that are necessary to conduct sampling of storm water discharges.

SECTION 3. Section 16.32.091 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

Sec. 16.32.091. Water Quality Management Standards for New Developments

- A. Applicability. Water quality treatment and downstream channel protection shall be required of owners of new developments that will result in impervious cover of twenty-two thousand five hundred (22,500) square feet or greater, including new developments that will result in impervious cover less than

January 25, 2010

twenty-two thousand five hundred (22,500) square feet that are part of a larger common plan of development or sale that results in twenty-two thousand five hundred (22,500) square feet or greater of impervious cover.

- B. Grandfathering, exemption or waiver from 16.32.091 shall not be construed as exempting the owner of properties where exempted activities are undertaken from making onsite drainage improvements that may be required in accordance with building and construction codes, nor from inspecting and maintaining any privately owned storm water management facilities and systems, nor from providing adequate storm water control measures to protect adjoining property owners and the public right-of-way from storm water discharges
- C. Grandfathering. All subdivision plats and other development proposals with drainage plans submitted after October 5, 2000 but before July 1, 2010 are exempt from the requirements of 16.32.091.
- D. Water Quality Treatment Standard. Storm water runoff from the new development must be treated for water quality prior to discharge from the development site in accordance with the storm water treatment standards and criteria provided in the Storm Water Manual.
- E. ~~Downstream Channel Erosion Protection Standard.~~ Downstream Stabilization Standard. Downstream long-term channel protection shall be provided in one of the following ways:
 - 1. the runoff volume from the 1-year frequency, 24-hour storm event shall be detained for not less than 24 hours; or
 - 2. the volume difference between the pre-development and post-development runoff for the 1-year frequency, 24-hour storm event must be infiltrated, reused or evaporated.

Formatted: Font color: Red, Strikethrough

SECTION 4. Section 16.32.092 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

Sec. 16.32.092. Water Quality Management Standards for Redevelopments

- A. Applicability.
 - a. Water quality treatment and downstream channel protection shall be required for redevelopment that will add twenty-two thousand five hundred (22,500) square feet or greater of impervious cover, including redevelopment that will add impervious cover less than twenty-two thousand five hundred (22,500) square feet that are part of a larger common plan of development or sale that adds twenty-two thousand five hundred (22,500) square feet or greater of impervious cover;

- b. Ordinary maintenance activities, remodeling of buildings on the existing foundation, resurfacing (milling and overlay) of existing paved areas, and exterior changes or improvements that do not meet section 16.32.092.a are exempt from this requirement.
- B. Grandfathering. All redevelopment plans with subdivision plats or other redevelopment proposals with drainage plans submitted after October 5, 2000 but before July 1, 2010 are exempt from the requirements of 16.32.092.
- C. Water Quality Treatment Standard. Owners of applicable redevelopments must adhere to one of the following requirements. All requirements are subject to the prior approval of the Director.
 - 1. The total impervious cover of the property after redevelopment shall be reduced by at least twenty-percent (20%) from the total impervious cover of the property prior to the proposed redevelopment.
 - 2. Storm water runoff from at least thirty percent (30%) of the site's existing impervious cover and for one-hundred percent (100%) of any new impervious cover that will result from the proposed redevelopment shall be controlled in accordance with the following requirements:
 - i. Storm water runoff must be treated for water quality prior to discharge from the redevelopment site in accordance with the storm water treatment standards and criteria provided in the Storm Water Manual.
 - ii. Downstream long-term channel erosion protection shall be provided in one of the following ways:
 - 1. the runoff volume from the 1-year frequency, 24-hour storm event shall be detained for not less than 24 hours; or,
 - 2. the volume difference between the pre-development and post-development runoff for the 1-year frequency, 24-hour storm event must be infiltrated, reused or evaporated.
 - 3. The owner shall provide storm water controls at an alternative location in the same watershed as the proposed redevelopment. The level of storm water control provided shall be equivalent to what would have been provided at the proposed redevelopment for either requirement 1 or 2 above, at a minimum.
 - 4. In agreement and partnership with the City of Wichita, the owner shall provide engineering design and/or construction activities to address one or more known downstream water quality or channel erosion issues located within the same watershed as the proposed redevelopment, through stream restoration and/or other off-site remedies approved by the Director.
 - 5. The owner shall pay a fee in-lieu-of water quality control and channel protection control, in an amount to be determined by the city in accordance with the in-lieu-of fee schedule as adopted by the City

January 25, 2010

Council of the City of Wichita per the watershed plan which covers the redevelopment.

6. Any combination of (1) through (5) above may be acceptable to the City of Wichita or other solution(s) approved by the Director that meets the intent of this chapter.

SECTION 5. Section 16.32.093 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.093. Storm Water Quantity Management Standards for New Developments and Redevelopments

- A. Applicability. Storm water runoff peak discharge analysis and control shall be required of owners of new developments that will result in one (1) acre or greater of impervious cover and of owners of redevelopments that will result in one (1) acre or greater of impervious cover.
- B. Peak Discharge Control Design Standard. The calculated peak discharge of storm water runoff at each site storm water outfall resulting from the 2-year, 5-year, 10-year, 25-year and 100-year return frequency, 24-hour duration storm events shall be no greater after development or redevelopment of the site than that which would result from the same 2-year, 5-year, 10-year, 25-year and 100-year return frequency, 24-hour duration storm events on the same site prior to development or redevelopment.
- C. Sites with Off-Line Storm Water Management Facilities. A downstream hydrologic analysis to determine if the new development or redevelopment causes an increase in peak discharges and velocities compared to pre-development peak discharges and velocities for the same site shall be performed for the 2-year, 5-year, 10-year, 25-year and 100-year return frequency, 24-hour duration storm events. Peak discharges and velocities shall be evaluated at the location(s) of the storm water outfall(s) from the new development or redevelopment and at each downstream tributary junction, bridge, culvert, weir or dam to the next junction, bridge, culvert, weir or dam (whichever is encountered first) beyond the ten-percent (10%) point(s). If increases in the peak discharge or velocity are identified at any point in the analysis area as defined in this paragraph, the storm water management facilities at the new development or redevelopment shall be re-designed to eliminate such peak discharge and velocity increases.
- D. Sites with On-Line Storm Water Management Facilities. A downstream hydrologic analysis to determine if the new development or redevelopment causes an increase in peak discharges and velocities as compared to pre-development peak discharges and velocities for the same site shall be performed for the 2-year, 5-year, 10-year, 25-year and 100-year return

frequency, 24-hour duration storm events. Peak discharges and velocities shall be evaluated at the location(s) of the storm water outfall(s) from the new development or redevelopment and at each downstream tributary junction, bridge, culvert, weir or dam to the ten-percent (10%) point(s), or to the point(s) where the peak discharge and velocity are no longer increased, whichever is further downstream. If increases in the peak discharge or velocity are identified at any point in the analysis area as defined in this paragraph, the storm water management facilities at the new development or redevelopment shall be re-designed to eliminate such peak discharge and velocity increases.

SECTION 6. Section 16.32.094 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.094. Other Storm Water Management Requirements

- A. Applicability. Section 16.32.094 is applicable to new developments that are required to comply with section 16.32.091 or section 16.32.092 and/or section 16.32.093.
- B. Alternative Standards for Individual Watersheds. Alternative storm water management standards, either lesser or greater than those specified in this chapter, may be required in those areas or watersheds where water quality, flooding or erosion problems are known to exist, or in individual watersheds where a watershed plan or storm water master plan, approved by the City Council of the City of Wichita, specifies such alternative standards.
- C. Other Requirements for Storm Water Discharges.
 - 1. ~~Storm water runoff shall not be discharged from the new development or redevelopment in an erosive manner, as defined in the Storm Water Manual, during construction or after construction is complete.~~ Storm water discharges from new development or redevelopment shall be managed in consideration of the erosion control measures detailed in the Storm Water Manual.
 - 2. Any discharge of storm water runoff to groundwater must meet all applicable local, State and Federal requirements, permits, plans and programs. The applicant is responsible for complying with all local State and Federal permits that are applicable to the site.
- D. Requirement to Stabilize Banks. Banks of all streams, channels, ditches and other earthen storm water conveyances shall be left in a stabilized condition upon completion of the new development or redevelopment. No actively eroding, bare or unstable vertical banks shall remain after completion of construction.

Formatted: Font color: Red, Strikethrough

Formatted: Font color: Red, Strikethrough

January 25, 2010

- E. Requirement to Use the Storm Water Manual. All storm water facilities and systems, including those designed and constructed for water quality treatment, channel protection, and peak discharge control shall be designed, constructed and maintained in accordance with the criteria, standards, and specifications presented in this chapter and in the Storm Water Manual. The standards for water quality treatment, downstream channel protection and peak discharge analysis and control shall be achieved through the use of one or more storm water quality management facilities that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the Storm Water Manual. Methods, designs or technologies for storm water quality management facilities that are not provided in the Storm Water Manual may be submitted for approval by the city if it is proven that such methods, designs or technologies will meet or exceed the storm water treatment standards set forth in the Storm Water Manual and this ordinance. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the Storm Water Manual.
- F. Storm Water Facilities on Public Property. Storm water management facilities shall not be installed within public rights-of-way or on public property unless a permit has been issued by the city engineer.
- G. Access Easement Required. In order to provide access to storm water and/or water quality volume reduction areas by inspection and maintenance personnel, vehicles and equipment, the property owner(s) shall provide an access and maintenance easement in accordance with the requirements and policies presented in the Storm Water Manual.

SECTION 7. Section 16.32.095 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.095. Waivers and Exemptions from Storm Water Management Standards for New Developments

- A. Exemptions. Owners of properties where the following activities are undertaken are exempt from the requirements of sections 16.32.091, 16.32.092, 16.32.093 and 16.32.094 of this chapter.
 - 1. Minor land disturbing activities at individual locations, such as gardening, building or grounds maintenance and landscaping, provided that the activity does not result in equal to or greater than one (1) acre of disturbed land;
 - 2. Individual utility service connections, unless such activity is carried-out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a grading permit would otherwise be required by regulation;

3. Installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a grading permit would otherwise be required by the regulation;
 4. Installation of posts or poles;
 5. Farming activities;
 6. Unplanned emergency work and emergency repairs necessary to protect life or property.
- B. Waivers. All or some of the storm water management standards required in section 16.32.091 or 16.32.092 and/or 16.32.093 of this chapter may be waived by the Director under the following circumstances:
1. the storm water management standard being considered for waiver is provided by an existing storm water management facility that is located downstream; or,
 2. engineering studies determine that installing a storm water management facility in order to meet the storm water management standard being considered for waiver will cause adverse impact to water quality, or cause increased channel erosion, or downstream flooding; or,
 3. the proposed new development or redevelopment will have regional storm water management facilities provided in accordance with an existing watershed plan that is approved by the city. If a waiver is received for this reason, the owner of the new development or redevelopment will be required to pay a fee in-lieu-of water quality control, channel protection control and peak discharge control, in an amount to be determined by the city in accordance with an adopted in-lieu-of fee schedule as adopted by the City Council of the City of Wichita per the watershed plan which covers the new development or redevelopment, or,
 4. the technical criterion required to waive the standard, as presented in this subsection, is met.
 - i. Technical Criteria for Waiver of the Water Quality Treatment Standard. The requirements for water quality treatment may be waived if it is determined that the pollutants of concern from the new development or redevelopment are not those identified in the Storm Water Manual and would be best treated using an alternative approach than that defined by the Storm Water Manual.
 - ii. Technical Criteria for Waiver of the Downstream Channel Erosion Protection Standard. The requirement for downstream channel protection may be waived if engineering studies determine that the storm water conveyance channels located downstream of the new

development or redevelopment are capable for resisting long-term erosion.

- iii. Technical Criteria for Waiver of the Peak Discharge Control Standard. The requirement for peak discharge control may be waived if it is demonstrated that:
 1. the new development or redevelopment does not cause an increase in peak discharges from pre-developed conditions for the required storm events; or,
 2. increased peak discharges are adequately handled by the existing downstream channel without adverse impacts as defined in the Storm Water Manual.
 3. A waiver for any of these cases is subject to satisfaction of the following requirements, which shall be shown in drainage plans submitted for the new development or redevelopment:
 - i. the adequacy of downstream or shared off-site storm water management facilities shall be determined by engineering studies having sufficient hydrologic and hydraulic analysis that shows that a downstream facility or channel will offer equivalent protection from downstream flooding and erosion for all potentially affected downstream property owners as that required by this chapter;
 - ii. the applicant obtains any necessary CLOMR prior to construction, and a LOMR upon completion of construction; and,
 - iii. the applicant obtains all State and Federal permits that may be applicable to the site.
- C. Process for Requesting Waivers. A waiver for compliance with any of the storm water management standards must be requested of the Director in writing at the time of, or prior to, the submittal of storm water design information for the new development or redevelopment. The Director will notify the person(s) requesting the waiver in writing at the time of, or prior to, approval or denial of the storm water design information.
- D. Engineering Study Required. In the event that a waiver from storm water management control requirements is requested, the adequacy of downstream or shared off-site storm water management facilities to control storm water runoff shall be determined, reviewed and approved by an engineering study that is performed in accordance with the calculation methods presented in the Storm Water Manual. The engineering studies shall be performed at the expense of the owner(s) of the proposed new development or redevelopment, unless a study has already been or is being performed by the city as part of a watershed plan or other land use plan.

January 25, 2010

SECTION 8. Section 16.32.096 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.096. General Requirements for Storm Water Design Plans

- A. Storm water design information shall be submitted as part of the preliminary plat, final plat and construction plans, in accordance with the site development process established by the city.
- B. A building permit shall not be issued for the land development activity until the required storm water design information and corresponding plans are approved by the city.
- C. At a minimum, the storm water design information submitted at each stage of the city development process shall include the specific required elements that are listed and/or described in the Storm Water Manual, and shall be prepared in accordance with the policies and guidance provided in the Storm Water Manual. Additional storm water design information may be required as necessary to allow an adequate review of the existing or proposed site conditions.
- D. The submittal of storm water design information shall be subject to the requirements set forth in the minimum subdivision regulations, zoning ordinance, or other city regulations.
- E. The boundaries and elevations of the floodplain and floodway shall be depicted on storm water design plans using site specific topography.
- F. All hydrologic and hydraulic computations used in the design of storm water management facilities must be performed using the calculation methods presented in the Storm Water Manual unless equivalent methods are pre-approved by the city.
- G. Storm water design information shall be prepared under the supervision of and stamped by a professional engineer licensed to practice in the State of Kansas.
- H. The portions of the new development or redevelopment on which storm water management facilities and systems are located shall be shown on the preliminary and final plats for all residential subdivisions and recorded with the plat as permanent reserves or easements consistent with the policies stated in the Storm Water Manual. Non-residential plats and/or subdivisions having a total area less than or equal to fifteen (15) acres shall be required to demonstrate the viability of proposed storm water management facilities and systems. In such cases, the Director is authorized to allow contingent dedications for storm water facilities providing that the owner/developer enters into an agreement with the City guaranteeing the construction of the said facilities in accordance with a schedule approved in the said agreement.
- I. Conformity to the Approved Plans.

January 25, 2010

1. Grading designs shown on approved master grading plans and the design of storm water facilities and controls shown on approved design plans shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved plans without prior approval of a plan amendment by the city.
 2. Grading and storm water design plans shall be amended to meet all local ordinances and standards if the proposed site conditions change after plan approval is obtained, or if it is determined by the city during the course of grading or construction that the approved plan is inadequate.
- J. Duty to Provide an Operations and Maintenance Plan.
1. An Operations and Maintenance Plan shall be included with the storm water design information submitted with the construction plan. The Operations and Maintenance Plan shall include the required operation and maintenance provisions for each storm water management facility and water quality volume reduction area that is serving, or will serve, the development or redevelopment. The Operations and Maintenance Plan shall include all of the required elements that are listed and/or described in the Storm Water Manual, and shall be prepared in accordance with the policies and guidance provided in the Storm Water Manual.
 2. The Operations and Maintenance Plan shall include an estimate of the cost of future maintenance, prepared in accordance with the guidance provided in the Storm Water Manual.
 3. The Operations and Maintenance Plan shall specify the minimum inspection and maintenance requirements to be performed at necessary intervals by the property owner(s) as specified in the Storm Water Manual.
 4. The Operations and Maintenance Plan shall include an executed legal document entitled "Restrictive Covenants for Storm Water Facilities" (Covenants). The property owner shall record the Covenants with the deed for the property. The location of the storm water management facility(s) and water quality volume reduction areas, the recorded location of the Covenants document, and inspection and maintenance guidance outlining the property owner's responsibility shall be shown on a plat that is recorded for the property
- K. Duty to Provide Storm Water Construction Information on As-Built Drawings.
1. Prior to the release of the performance bond, complete As-Built Drawings shall be provided to the Director, and shall include sufficient design information to show that the storm water facilities will operate as designed under the approved drainage plan.
 2. The As-Built Drawings shall include the required elements that are listed and/or described in the Storm Water Manual, and shall be prepared in accordance with the policies and guidance provided in the Storm Water Manual.

January 25, 2010

3. The As-Built Drawings shall be prepared and stamped by a professional engineer licensed to practice in the State of Kansas.

SECTION 9. Section 16.32.097 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.097. Maintenance and Inspection of Storm Water Drainage Paths and Controls.

- A. Duty to Inspect and Maintain Storm Water Systems and Controls. Property owners shall at all times properly maintain and shall at intervals in accordance with the Operations and Maintenance Plan inspect all storm water facilities, systems, conveyances, pipes, channels, ditches, swales, inlets, catchbasins, water quality volume credit areas, and other facilities and systems of storm water treatment and control (and related appurtenances) so that they operate at their full function. ~~and not cause soil erosion on properties located downstream.~~ Maintenance and inspection of privately-owned storm water management facilities, systems, conveyances, pipes, channels, ditches, swales, inlets, catchbasins, water quality volume credit areas, and other facilities and systems of storm water treatment and control (and related appurtenances) shall be performed at the expense of the owner(s) of such facilities.
- B. Duty to provide inspection reports. After construction of each BMP on the property is complete, property owners shall provide to the Director on a bi-annual basis a completed and signed copy of the inspection report for each BMP that is included with the Operations and Maintenance Plan for the property. The inspection report is due every two years no later than the date (month and day) of approval of the as-built plan for the property.
- C. Duty to Preserve Approved Grading Designs. Re-grading an individual lot or lots, or portions of a lot or lots, in a manner that is not accordance the approved master grading plan, such that the direction(s) of storm water runoff is altered from the direction that would occur under the approved master grading plan, shall be considered a violation of this chapter.
- D. Duty to Preserve Existing Drainage Paths. Blockage of a channel, ditch, stream or any other drainage path or storm water system appurtenance that is located in a storm water easement or drainage easement shall be considered a violation of this chapter.
- E. Pollutant Removal for Maintenance. The removal of pollutants, sediment and/or other debris for the purpose of maintenance of storm water management facilities shall be performed in accordance with all city, State, and Federal laws.
- F. Inspection During Grading or Construction.

Formatted: Font color: Red, Strikethrough

1. During grading or construction, the property owner or his/her appointed designee shall conduct site inspections in accordance with the requirements stated in the Kansas General Permit for Storm Water Discharges from Construction Sites. The property owner will also ensure construction conformance with the approved drainage and construction plans. More stringent inspection requirements may be imposed as necessary for purposes of water quality protection and public safety and to pursue total conformance of the site with the approved plans.
 2. The following areas and items must be inspected throughout grading and construction to ensure that land disturbance activities do not cause adverse impacts to the performance of storm water management facilities and/or water quality volume reduction areas:
 - i. all unstabilized areas that drain to a permanent storm water facility or water quality volume reduction area;
 - ii. temporary and permanent storm water management facilities; and,
 - iii. all erosion prevention and sediment control measures.
- G. Inspection After Construction. Once the site has been stabilized and construction has ceased, the property owner or his/her appointed designee shall conduct routine inspections for the storm water management facilities and water quality reduction areas, based on the guidance provided in the Operations and Maintenance Plan and the requirements of the "Restrictive Covenants for Storm Water Facilities" for the property, as set forth in section 16.32.097J.4. of this ordinance.
- H. Inspection Records. Property owners shall make available upon request any self-inspection reports, monitoring/maintenance records, compliance evaluations, notices of intent, and any other records, reports, receipts, and other documents related to compliance with this chapter and with any related local, State or Federal permit.
- I. Right-of-Entry. The Director or his/her designee shall have the right to enter the premises of any person discharging storm water to the MS4 or to waters of the United States at any reasonable time to determine if the discharger is complying with all requirements of this chapter, and with any State or Federal discharge permit, limitation, or requirement. Dischargers shall allow the Director or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Failure of a property owner to allow entry onto a property for the purposes set forth in this section shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with the enforcement provisions of this chapter.
- J. Inspection and Notice by City. The city may periodically inspect these privately owned storm water controls. If the facility is not operating as shown in the approved As-Built Drawing, or should conditions be found that cause or

may cause the pollution of downstream receiving waters or the erosion of downstream channels or the flooding of adjacent or downstream properties, the Director may issue a notice of violation in accordance with the enforcement provisions stated in this chapter and shall notify the property owner(s) of the potential violation(s). The Director may order the property owner(s) to perform corrective actions as are necessary to facilitate the proper operation of these facilities for the purposes of flood prevention, channel protection, water quality treatment and/or public safety, and/or to ensure compliance with jurisdictional regulatory conditions.

- K. Failure to Perform Corrective Actions. If property owner(s) fail to make the necessary corrective actions in the timeframe specified in the enforcement provisions of this chapter, the city is authorized to perform the corrective actions at the expense of the owner(s). If the owner(s) fail to reimburse the city for the corrective actions upon demand, the city may assess the cost of the corrective actions to the owner and initiate any collection proceedings authorized by law.
- L. Access to Adjacent Properties. This ordinance does not authorize access by a property owner or site operator to private property adjacent to or downstream of the owner's property. Arrangements concerning removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining landowner.

SECTION 10. Section 16.32.098 of the Code of the City of Wichita, Kansas, shall be created to read as follows:

Sec. 16.32.098. Special Provisions for Open Channels.

- A. No structure or land shall hereafter be developed, redeveloped, located, extended, converted, or structurally altered without full compliance with the terms of this section, the City of Wichita Floodplain Management Ordinance (Chapter 27.06) and other applicable local, state or federal regulations.
- B. Requirements for vegetative buffer zones or maintenance access areas that have been established in approved and adopted watershed plans have priority over the provisions of this section.
- C. Closure of open channels. Existing or proposed open channels may be enclosed if a maintenance plan approved by the City is provided; if the closed conduit conforms to the design criteria set in the Storm Water Manual for minimum slopes, self-cleaning velocities, and maintenance access points.
- D. Access Easement Required. All open channels must have a minimum twenty (20) foot wide maintenance access on each side of the stream as measured from the top-of-bank on each side of the stream, except as required by KSA

January 25, 2010

24-126 as amended, and KAR 5-45-12 as amended for "streams" defined in KAR 5-45-1 as amended.

SECTION 11. Section 16.32.100 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16.32.100. Enforcement actions.

- A. The discharge of, or potential discharge of, any pollutant to the MS4 or waters of the United States and/or the failure to comply with the provisions of this chapter and/or the failure to comply with and directive, citation, or order issued under this chapter; are violations of this chapter for which enforcement action may be taken.
- B. Prior to taking any enforcement action as specified in this section, a violator will be issued a notice of violation except when, in the opinion of the Director, an owner or contractor has repeatedly ignored the requirements of this chapter and has not made any reasonable intent to comply with these provisions. When issued, the notice of violation will detail the nature of the violation, actions to be taken to remedy the violation, actions to be taken to clean-up any pollutants, and any specific time periods within which to accomplish said actions. Failure to successfully comply with the notice of violation may result in enforcement action.
- C. The enforcement actions to be taken under this chapter, as provided in Section 16.32.110 are as follows:
 - 1. Criminal Penalty. Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars. Each and every day during which any violation of any provision of this chapter is committed, continue, or permitted is a separate violation.
 - 2. Stop Work Order. Notwithstanding other penalties provided by this chapter, whenever the Director or OCI, or their designees, finds that any owner or contractor on a construction site has violated, or continues to violate, any provision of this chapter or any order issued thereunder, the Director or OCI may after reasonable notice to the owner or contractor issue a stop work order to the owner and contractors by posting such order at the construction site. Said order shall also be distributed to all city departments and divisions whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at building permit, grading permit, site development plan approval, or any other approval necessary to commence or to continue construction or to assume occupancy at the

site. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the violator. Failure to comply with the requirements of any stop work order is a violation of this chapter.

3. Administrative Penalty Process.

- a. When the Director finds that any person has violated or continues to violate the provisions set forth in this chapter, or the person's NPDES permit or any order issued thereunder, the Director may issue an order for compliance to the person. Such orders may contain any requirements as might be reasonably necessary and appropriate to address noncompliance including, but not limited to, the installation of best management practices, additional self-monitoring, and/or disconnection from the MS4.
- b. The Director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance. Such orders shall include specific action to be taken by the person to correct the noncompliance within a time period specified by the order.
- c. Notwithstanding any other remedies or procedures available to the city, any person who is found to have violated any provision of this chapter, or any NPDES permit or any order issued under this chapter, may be assessed an administrative penalty as follows:
 1. The minimum administrative penalty for any violation shall be no less than five hundred dollars (\$500) per day the violation is maintained and not more than two thousand five hundred dollars (\$2,500) per day for each day the violation is maintained;
 2. Failure to obtain required NPDES permit: up to two thousand five hundred dollars (\$2,500) per violation;
 3. Failure to prepare stormwater pollution prevention plan: up to two thousand five hundred dollars (\$2,500) per violation;
 4. Failure to install best management practices: up to two thousand five hundred dollars (\$2,500) per violation;
 5. Failure to maintain best management practices: up to two thousand five hundred dollars (\$2,500) per violation;
 6. Failure to perform required sampling and testing or provide testing reports: up to one thousand dollars (\$1,000) per violation.

7. Commencement of construction without an approved drainage plan: up to two thousand five hundred dollars (\$2,500) per day of noncompliance;
 8. Failure to comply with approved drainage plan: up to two thousand five hundred dollars (\$2,500) per day of noncompliance;
 9. Failure to maintain storm water management facilities: up to two thousand five hundred dollars (\$2,500) per day of noncompliance.
- d. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.
 - e. Separate but multiple violations (except for violations under subsection C.3.d) by the same person(s) on one or more sites within any period of twelve consecutive months shall be cause to double the amount of penalty assessed under section C.3.c above for each violation after the first.
 - f. Upon assessment of any administrative penalty, the city will bill the violator for said charge and the Director shall have such collection remedies as are available at law.

SECTION 12. Section 16.32.110 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16. 32.110. Applicability of enforcement actions.

- A. Illegal dumping will be subject to criminal penalties process.
- B. Illegal connections will be subject to either the criminal or administrative penalty processes.
- C. Industrial violations will be subject to the administrative penalty process.
- D. Individual building sites not requiring a federal or state NPDES permit will be subject to the criminal penalty and the stop work order processes; however, any owner or contractor of such site found with multiple violations of this chapter will also be subject to the administrative penalty process.
- E. Individual building sites requiring a federal or state NPDES permit will be subject to the administrative penalty process.
- F. Subdivision developers in subdivisions not requiring a federal or state NPDES permit will be subject to the criminal penalty and stop work order processes; however, any such developer found with multiple violations of this chapter will also be subject to the administrative penalty process.

January 25, 2010

- G. Subdivision developers of subdivisions requiring a federal or state NPDES permit will be subject to the administrative penalty process.
- H. City contractors and utility companies working on projects not requiring a federal or State NPDES permit will be subject to the criminal penalty process.
- I. City contractors and utility companies working on projects requiring federal or state NPDES permit will be subject to the administrative penalty process.
- J. Property owners, subdivision developers, commercial and industrial developers, and city contractors working on new developments and redevelopments requiring compliance with the City of Wichita storm water quality or quantity management standards will be subject to the criminal penalty, stop work order and administrative penalty processes.
- K. Owners of storm water management facilities and systems that are required to be maintained in accordance with an approved Operations and Maintenance Plan will be subject to the criminal penalty and administrative penalty processes.

SECTION 13. Section 16.32.120 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16. 32.120. Hearing and appeal.

- A. Any violator that is subjected to the administrative penalty or stop work processes may request a hearing and appeal as follows:
 - 1. Any party affected by a penalty, order, directive or determination issued or made, pursuant to this chapter may, within seven days of the issuance of such penalty, order, directive, or determination request a hearing before the Director to show cause why such should be modified or made to not apply to such person. Such request shall be in writing and addressed to the Director of Public Works at 455 North Main Street, Wichita, Kansas, 67202. The Director or his designee shall hold the requested hearing as soon as practical after receiving the request, at which time the person affected shall have an opportunity to be heard. At the conclusion of the hearing, the Director shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order, directive, or determination issued or made.
 - 2. Any party aggrieved by the decision of the Director may appeal such decision to the Storm Water Appeals Board within seven days of receipt of the decision by filing notice of appeal with the city clerk. Upon hearing, the Storm Water Appeals Board may affirm, modify, or reverse the decision of the Director.

January 25, 2010

3. Any party aggrieved by the Storm Water Appeals Board may appeal such decision to the City Council within seven days of receipt of the decision by filing a notice of appeal with the city clerk. Upon hearing, the City Council may affirm, modify, or reverse the decision of the Storm Water Appeals Board.

SECTION 14. Section 16.32.130 of the Code of the City of Wichita, Kansas, shall be amended to read as follows:

Sec. 16. 32.130. Enforcement personnel authorized.

- A. The following personnel employed by the city shall have the power to issue notices of violations, criminal citations and implement other enforcement actions under this chapter:
 1. All deputies under the supervision of the Superintendent of the Office of Central Inspections;
 2. All authorized personnel under the supervision of the Director of Public Works;
 3. All authorized personnel under the supervision of the Director of Environmental Services.

SECTION 15. Sections 16.32.010, 16.32.080, 16.32.100, 16.32.110, 16.32.120, and 16.32.130 of the Code of the City of Wichita is hereby repealed.

SECTION 16. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the Official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas this
date_____.

January 25, 2010

Carl Brewer, Mayor

Attest:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law